

PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number Q77174	
Mail Stop AF Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450	Application Number	Filed	
	10/648,277	August 27, 2003	
	First Named Inventor		
	Takayuki TSUTSUMI		
	Art Unit	Examiner	
	2419	Andrew W. Chriss	
<p style="text-align: center;">WASHINGTON OFFICE 23373 CUSTOMER NUMBER</p>			
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal</p> <p>The review is requested for the reasons(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p><input checked="" type="checkbox"/> I am an attorney or agent of record.</p> <p>Registration number 60,150</p> <p style="text-align: right;">/Eric S. Barr/ Signature</p> <p style="text-align: right;">Eric S. Barr Typed or printed name</p> <p style="text-align: right;">(202) 293-7060 Telephone number</p> <p style="text-align: right;">February 27, 2009 Date</p>			

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Docket No: Q77174

Takayuki TSUTSUMI, et al.

Appln. No.: 10/648,277

Group Art Unit: 2419

Confirmation No.: 4437

Examiner: Andrew W. Chriss

Filed: August 27, 2003

For: FAST ROAMING SYSTEM

PRE-APPEAL BRIEF REQUEST FOR REVIEW

MAIL STOP AF - PATENTS

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

Pursuant to the Pre-Appeal Brief Conference Pilot Program, and further to the Examiner's Final Office Action dated October 27, 2008, Applicant files this Pre-Appeal Brief Request for Review. This Request is also accompanied by the filing of a Notice of Appeal.

Applicant turns now to the rejections at issue:

I. Claim Rejections under 35 U.S.C. § 102(e)

Claims 1-3, 6, 12, 15-17, 20, 28, and 29 are rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by U.S. Patent Application Publication No. 2002/0025810 to Takayama et al. (hereinafter "Takayama"). Applicant respectfully traverses this rejection.

The Examiner alleges that Takayama discloses a mobile terminal comprising the following features, recited in claim 1:

an access point search unit for searching for peripheral connectable access points and for obtaining access point data, [... and]

an access point data table in which the access point data detected and obtained by the access point search unit are recorded

Applicant respectfully disagrees. In the Amendment filed on July 9, 2008, Applicant respectfully submitted that, instead of a mobile terminal searching for peripheral connectable access points and obtaining access point data, and instead of a data table where the data obtained by the mobile terminal is recorded, according to Takayama, the station downloads hopping information of neighboring access points from the subscription access point (see paragraph 0077 of Takayama).

A person of ordinary skill in the art would understand that a mobile terminal searching for peripheral connectable access points and obtaining access point data is not the same as downloading information on neighboring access points from a single subscription access point.

According to Takayama, each of the access points (not the mobile stations) receives hopping information of the neighboring access points and constructs a database using the received information (see paragraph 0018 of Takayama). Then, rather than the mobile terminal searching for access points and obtaining access point data, which is recorded in an access point data table, according to Takayama, the mobile terminal monitors the radio beacons of the connected access point and downloads the database of hopping information of the neighboring access points from the connected access point (see paragraph 0018 of Takayama).

In response to this argument for patentability, the Examiner alleges that Takayama discloses a mobile terminal comprising a wireless LAN interface and a CPU that scans and monitors beacons for peripheral access point data for storage in a database. The Examiner

further alleges that “searching for peripheral connectable access points” is taught by the scanning operation disclosed by Takayama, and that access point data is downloaded from the access point found during the scanning operation. *See* pages 8 and 9 of the Office Action and page 2 of the Advisory Action.

Applicant respectfully disagrees. Contrary to the Examiner’s assertion, Takayama does not disclose a mobile terminal comprising a wireless LAN interface and a CPU that scans and monitors beacons for peripheral access point data for storage in a database.

Firstly, according to Takayama, scanning all channels of the radio frequency via the wireless MAC controller 32 is performed only when hopping information is not downloaded (*see* FIG. 8, step S85 and paragraph 0083 of Takayama). Takayama does not disclose storing the information obtained by scanning in any database. Instead, paragraph 0081 and FIG. 8 of Takayama illustrate that the database includes hopping information that has been downloaded, not information obtained through scanning. According to Takayama, when all channels of the radio frequency are scanned (because hopping information is not downloaded), a database is not used (*see* FIG. 8 of Takayama). Takayama only discloses using a database to compare the communication situations of the neighboring access points when the hopping information of the neighboring access points has been downloaded (*see* FIG. 8, steps S81 and S82 of Takayama). Thus, Takayama does not disclose recording in an access point data table access point data detected and obtained by the access point search unit of a mobile terminal.

Secondly, when hopping information is downloaded from the subscription access point, the mobile terminal does not search for peripheral connectable access points. Instead, according to Takayama, hopping information of neighboring access points is saved in the subscription

access point and downloaded by the station (*see* paragraph 0077 of Takayama). Thus, it is unnecessary for a mobile terminal to search for peripheral connectable access points because the hopping information has been downloaded. The Examiner points to disclosure regarding monitoring beacons (*see* page 9 of the Office Action), but according to Takayama, beacon quality is monitored to determine the latest radio situation of neighboring access points, not to search for peripheral connectable access points.

Accordingly, Applicant respectfully submits that Takayama does not disclose that the mobile terminal searches for the peripheral connectable access points and obtains the access point data, which is recorded in an access point data table. At least for this reason, Applicant respectfully submits that claim 1 is patentable over Takayama.

Claim 15 recites features similar to, although not necessarily coextensive with, the features discussed above with respect to claim 1. Thus, Applicant respectfully submits that claim 15 is patentable over Takayama at least for the reasons discussed above with respect to claim 1. Applicant respectfully submits that claims 2, 3, 6, 12, and 28 and claims 16, 17, 20, and 29 are patentable over Takayama at least by virtue of their dependency on claims 1 and 15, respectively.

II. Claim Rejections under 35 U.S.C. § 103(a)

Claims 5 and 19 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Takayama in view of U.S. Patent Application Publication No. 2001/0046879 to Schramm et al. (hereinafter "Schramm"). Claims 8, 9, 22, and 23 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Takayama in view of U.S. Patent No. 6,393,282 to Iimori (hereinafter "Iimori"). Claims 10 and 24 are rejected under 35 U.S.C. § 103(a) as allegedly

being unpatentable over Takayama in view of U.S. Patent No. 5,864,578 to Yuen (hereinafter "Yuen"). Claims 11 and 25 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Takayama in view of U.S. Patent Application Publication No. 2003/0123405 to del Prado et al. (hereinafter "del Prado"). Claims 13, 14, 26, and 27 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Takayama in view of U.S. Patent Application Publication No. 2004/0063426 to Hunkeler (hereinafter "Hunkeler").

Applicant respectfully submits that claims 5, 8-11, 13, 14, 19, and 22-27 are patentable over Takayama by virtue of their dependency on claim 1 or 15, as discussed above. Applicant further submits that the disclosure of Schramm, Iimori, Yuen, del Prado, and Hunkeler does not cure the deficiencies of Takayama with respect to claims 1 and 15. Accordingly, Applicant respectfully submits that claims 5, 8-11, 13, 14, 19, and 22-27 are patentable over the various combinations of Takayama, Schramm, Iimori, Yuen, del Prado, and Hunkeler applied by the Examiner.

Respectfully submitted,

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23373

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